

abuses will be much more difficult to inflict, however, if the Commission prohibits "one-of-a-kind" volume discounts for cellular service sold to the affiliated BOC for resale and mandates public disclosure of resale rates, terms, and conditions.

Finally, MCI agrees with the commenters who strongly urge the Commission not to permit the sunset of Section 22.903 at least until BOCs have lost all market power in the local exchange and CMRS markets. As PUCO comments, "it is premature to consider relaxation of the safeguards since little is certain regarding competition in the local service arena, and the implementation of the Telecommunications Act of 1996. . . . It is far too early in the process to begin thinking of a sunset provision for these rules."³⁹

Ameritech, Bell Atlantic-NYNEX, and SBC, on the other hand, urge the Commission to eliminate its cellular structural separation requirement immediately.⁴⁰ As MCI made clear in its Comments, however, it would be far more prudent, and more consistent with the policy rationale underlying the structural separation rule, for the Commission to consider the ongoing market dominance of the BOCs in deciding whether to eliminate that requirement. Accordingly, until a BOC no longer possesses the ability and incentive to exercise market power to the

³⁹ Comments of PUCO at 21.

⁴⁰ Comments of Ameritech at 10; Bell Atlantic-NYNEX at 8; SBC at 10.

detriment of cellular competitors -- which is not the case today -- the Commission should retain this tool for deterring the BOCs from engaging in anticompetitive conduct in the provision of wireless services. Thus, the structural separation rule certainly should not be eliminated immediately, nor should it sunset when a BOC receives in-region interLATA authority. Rather, as suggested by a number of commenters, the Commission should consider eliminating the requirement only when the BOCs' local exchange market dominance completely disappears and there is meaningful wireless competition.

IV. OTHER CMRS SAFEGUARDS

In its Comments, MCI supported the Commission's tentative conclusion that it refrain from applying a structural separation requirement to non-BOC LECs, but that it impose nonstructural safeguards on all in-region Tier 1 LEC cellular, PCS, and other CMRS operations if it decides not to adopt structural separation requirements on those carriers. As MCI noted, these nonstructural safeguards may be helpful in facilitating competition in PCS services by enabling CMRS providers to obtain nondiscriminatory interconnections with the BOCs' local exchange networks.⁴¹ MCI's views are supported by other parties, which agree that due recognition should be given to the different circumstances confronting different LECs.⁴² Thus, contrary to the arguments of some parties, it would not prudent for the

⁴¹ MCI Comments at 20.

⁴² See, e.g., Comments of AT&T at 14-15; Comments of Bell-Atlantic-NYNEX at 21.

Commission to adopt a uniform rule covering all LECs merely for the sake of symmetry.⁴³

V. **CONCLUSION**

For the reasons stated above, the Commission should retain its structural separation requirement for the BOCs' provision of cellular services and otherwise adopt the recommendations presented in MCI's initial Comments.

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Dated: October 24, 1996

⁴³ See Comments of SBC at 16-19.

CERTIFICATE OF SERVICE

I, Sylvia Chukwuocha, do hereby certify that a true copy of the foregoing "REPLY COMMENTS" was served this 24th day of October, 1996, by hand delivery or first class mail, postage prepaid, upon each of the following persons:

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